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JUN 19 2008

Serial No.: 10/632,061
Examiner: Chris E. Simmons
Group Art Unit: 1614

STATUS OF CLAIMS

Claims 1-20 and 22-27 are presently pending.

REMARKS**Rejection Under 35 U.S.C. 103(a) Using Prior Art Under 35 U.S.C. 102(e)**

The Examiner rejects claims 1-7 and 9-20, 22-26, and 28-29 under 35 U.S.C. §103(a) as being unpatentable over Pinchuk et al. (U.S. Pub. No. 2002/0107330 A1) in view of Schwarz (U.S. Pub. No. 2003/0236514). Claim 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pinchuk et al. in view of Schwarz taken in view of Van Dijk et al. (PCT Appln. Pub. No. WO/2000/061203). Claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Pinchuk et al. in combination with Schwarz taken in view of Ding et al. (U.S. Pat. No. 5,837,313). With respect to the rejections, the Examiner states that the primary reference, Pinchuk et al., constitutes prior art only under 35 U.S.C. §102(e). The Examiner also states that the applied reference has a common assignee with the instant application.

In response, Applicants traverse the rejections and their accompanying remarks. Applicants state that the applied reference, Pinchuk et al., is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. §103(a) using a prior art reference under 35 U.S.C. 102(e). Applicants state that according to MPEP 715.01(b):

Where, however, a rejection is applied under 35 U.S.C. 102(f)/103 or 35 U.S.C. 102(g)/ 103, or, in an application filed on or after November 29, 1999, under 35 U.S.C. 102(e)/ 103 using the reference, a showing that the invention was commonly owned, or subject to an obligation of assignment to the same person, at the time the later invention was made would preclude such a rejection or be sufficient to overcome such a rejection. See MPEP § 706.02(I) and § 706.02(I)(1).

Applicants make the following statement:

STATEMENT OF COMMON OWNERSHIP OR OBLIGATION OF ASSIGNMENT

Applicants state that the inventions of Pinchuk et al. and the present application, which was filed after November 29, 1999, were commonly owned or subject to an obligation of assignment to the same entity at the time the invention of the present application was made.

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Thus, Applicants respectfully state that pursuant to M.P.E.P. § 715.01 and § 706.02(1), the rejections over Pinchuk et al. have been overcome. This is the sole outstanding issue in the application. Thus, since the rejections under Pinchuk et al. have been overcome, Applicants state that the claims are in condition for allowance.


CONCLUSION

Applicant respectfully submits that all outstanding issues have been resolved and the pending claims are in condition for allowance, early notification of which is earnestly solicited. Should the Examiner be of the view that an interview would expedite the application at large, request is made that the Examiner telephone the undersigned attorney at (908) 518-7700, ext. 7 in order to resolve any outstanding issues. The Office is authorized to charge any fees required to deposit account number 50-1047.

FEES

The Office is authorized to charge any fees required, to deposit account number 50-1047.

Respectfully submitted,



Keum J. Park
Registration No. 42,059

Attorney for Applicant
Mayer & Williams PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090
Tel.: 908-518-7700, ext. 7
Fax: 908-518-7795